



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,606	02/25/2002	Mark A. McNeilage	14-02	1625

23713 7590 06/03/2003

GREENLEE WINNER AND SULLIVAN P C
5370 MANHATTAN CIRCLE
SUITE 201
BOULDER, CO 80303

EXAMINER

HWU, JUNE

ART UNIT	PAPER NUMBER
----------	--------------

1661

DATE MAILED: 06/03/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,606

Applicant(s)

MCNEILAGE ET AL.

Examiner

June Hwu

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1661

DETAILED ACTION

The amendment filed April 14, 2003 has been entered.

Drawings

An Official Draftsman has approved the drawings filed April 14, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action (paper number 4).

Claim Rejections and Response to Arguments

Claim 1 remains rejected under 35 U.S. C. 112, first and second paragraphs, for the reasons stated in the last Office Action (paper number 2).

Applicants' amendment dated April 14, 2003 failed to address the following grounds of rejection:

- A. The variety denomination of the claimed plant should be stated and preceded by the heading set forth in 37 CFR 1.163 (c)(5).
- B. Applicants have not set forth in the specification the recognized color chart. It appears that the applicant's choice of color chart is The RHS Colour Chart, if accurate. Correction is necessary.
- C. Applicants have not set forth in the specification the average size and surface texture of the sepals. Corrections are necessary.

Art Unit: 1661

D. Applicants have not set forth in the specification the average size of the sepals.

Correction is necessary.

E. Applicants have not set forth in the specification the average size of the flower buds.

Correction is necessary.

F. Applicants have not set forth in the specification the average number of stamens.

Correction is necessary.

G. Applicants have not set forth in the specification the average length of the filament, anther, style, and ovary. Correction is necessary.

H. Applicants have not set forth in the specification the average locule number. Correction is necessary.

Applicants' amendment failed to address the following new grounds of rejection:

I. Page 6, line 20 of the amendment, the term "Reddening" is unclear. Clarification and correction are necessary.

Amendments in a Revised Format Now Permitted

The USPTO is permitting applicants to submit amendments in a revised format. The revised amendment format is essentially the same as the amendment format that the Office is considering adopting via a revision to 37 CFR 1.121. Compliance to the revision to 37 CFR 1.121 (if adopted) will be mandatory by July of 2003. Complete details to the revised

Art Unit: 1661

amendment format can be found on the Internet at

<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdtprac.htm>.

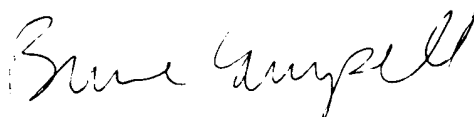
Future Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to June Hwu whose telephone number is (703) 308-5017. The Examiner can normally be reached Monday through Friday from 6:30 a.m. to 4:00 p.m. and off alternate Mondays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax numbers for the group are Before Final (703) 872-9306 and After Final (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service Center whose telephone number is (703) 872-9305.

JH


BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600